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March 29, 2019

**VIA ECF**

Honorable Colleen McMahon  
Chief United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

**Re: *United States v. Connolly, et al.*, No. 16-cr-00370**

Dear Chief Judge McMahon:

We write to supplement an exhibit filed in connection with our Reply Memorandum of Law In Further Support of Defendants' Motion For Prosecutorial Misconduct. [ECF No. 425 (the "Reply Brief").] Attached as Exhibit 5 to the declaration of Scott B. Klugman in further support of that Motion is an e-mail dated March 1, 2018 between counsel to Mr. Black and the Government's Filter Team (the "March 1 E-mail"). [ECF No. 426-5.]

Subsequent to our filing, the Government's Filter Team correctly pointed out that the March 1 E-mail was incomplete and asked that we file the complete chain with the Court. That e-mail is attached here as Exhibit A. As reflected in Exhibit A, the Filter Team ultimately shared some detail, on March 7, 2018, concerning the "technical error" that prevented it from producing all of the relevant materials, including e-mails reflecting communications between the Government and Mr. Prange, prior to the December Hearing; accordingly, the statement in our Reply Brief at page 30 that the "Filter Team refused to provide Mr. Black with any detail" is not accurate. As further reflected in Exhibit A and Defendants' Opening Brief [ECF No. 398 at 44], we first brought this matter to the attention of the Filter Team on February 16, 2018, shortly after the Government's February 14, 2018 Jencks Act production revealed that the Government's prior productions did not contain materials shown to the declarants during the Filter Team's interviews. [ECF No. 399-29 (Levine Decl. in Support of Defs.' Opening Brief at Ex. 29).]

Nothing in the e-mail at Exhibit A alters Mr. Black's position or the material facts: the "technical error" that prevented the Filter Team from making complete productions of relevant e-mails does not excuse its failure to apprise the Court and Mr. Black of the existence of these materials before or during the December Hearing. Such materials reflect that (i) the

Government's representations as to the scope of the FCA's involvement in the King proffer and (ii) the declaration of Jennifer Saulino filed by the Filter Team in support of the Government's *Kastigar* opposition, were false and misleading. [See ECF No. 398 at 41-45; ECF No. 425 at 28-31.]

Respectfully submitted,

Levine Lee LLP

/s/ Scott B. Klugman

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cc: All parties (via ECF)